CHAPTER 5
LAND REDISTRIBUTION POLICY IN SOUTH AFRICA

5.1 INTRODUCTION

The previous chapter gave a brief explanation of land reform problems as experienced in some other developing countries. The case studies of Brazil and the Philippines clearly outlined how land redistribution was conceptualised and implemented, the challenges that these countries encountered during policy formulation and implementation, as well as lessons learnt from which comparisons could be drawn given the similarities of their land redistribution models to that of South Africa.

The aim of this chapter is to explain the origins of the LRAD policy of South Africa, the administrative context through which it was implemented, as well as the challenges faced with its administration. The discussion will be confined to events that led to the institution of the new Government in 1994, as well as policies introduced by the post-1994 Government and their relevance to the administration of the LRAD programme.

5.2 ADMINISTRATIVE POLICIES RELEVANT TO LRAD PROGRAMME ADMINISTRATION

The aim of the discussion is to introduce the process of negotiations towards a political settlement, the political and administrative set-up in the new democratic South Africa, and how the situation has evolved over time. This section will also discuss policy, organisational, financing, staffing, procedural and accountability arrangements put in place by the post-1994 Government and which impact on the administration of Government policies such as the LRAD programme.

5.2.1 The pre-1994 political settlement for the creation of a democratic South Africa

The democratic Government of South Africa came about through a negotiated settlement reached during the Convention for a Democratic South Africa (CODESA) talks (Weideman, 2004:226), which both the ruling National Party government and the

African National Congress had to opt for as neither party was decisively defeated at the end of the 1980s (Giliomee, 1995:84). A number of factors have been cited (Giliomee, 1995:84-93; Rantete & Giliomee, 1992:516; Habib, Pillay & Desai, 1998:103; MacDonald, 1996:224) as having facilitated the process of negotiations between the two parties, namely:

- armed and mass resistance to apartheid from Black people;
- divisions among the dominant Afrikaner group on how to deal with the revolution;
- economic pressure brought to bear on the Government in the form of disinvestment, trade restrictions and bans on long-term credit;
- the delegitimisation and international ostracisation of the apartheid government;
- the collapse of communist states in Eastern Europe and the Soviet Union, which deprived the ANC of its important resources;
- pressure exerted by the Soviet Union and some southern African Frontline States for the ANC to negotiate a political settlement;
- control of the economy by White people, which economy was going to be critical in providing the resources necessary to sustain the development programmes of the new Government;
- the signing of the New York Accords of 1988, which granted independence to Namibia and resulted in the withdrawal of Cuban troops from Angola, a situation that weakened the ANC as it resulted in them evacuating their camps in Angola, which were within striking distance of South Africa; and
- the erosion of the South African Government's strategic defences, with the collapse of colonisation in Angola, Mozambique, Zimbabwe and Namibia.

During the negotiations, there was agreement between the negotiating parties that a democratic dispensation should be ushered in (Giliomee, 1995:96-97; Habib *et al*., 1998:104). However, there were disagreements, with the NP government proposing a power-sharing model, while the ANC-led alliance promoted a majority-based concept of democracy (Giliomee, 1995:96; Habib *et al*., 1998:104). In the end, the following major concessionary agreements were made (Giliomee, 1995:96, Habib *et al*., 1998:104, MacDonald, 1996:227-228):

- the establishment of a constitutional democracy;
- the drafting of an interim Constitution and Bill of Rights, which Constitution:

  - was the legal instrument through which the Constituent Assembly came into being; and
  - laid the foundation for most of the constitutional principles upon which the current Constitution, 1996, is based;
- the holding of elections for the Constituent Assembly, which was tasked to write the final constitution;
- a power-sharing arrangement based on proportional representation for a period of five years (i.e. parties with 5% or more votes in elections receiving seats in the Cabinet proportional to the number of votes), which also made provision for the President (elected by majority rule), and the two Vice-President posts to accommodate minorities;
- that minority parties could not veto executive decisions but had to be consulted by the President on executive decisions to be made;
- the National Party secured concessions which granted job protections for state officials, a move that was strategic in that it gave the National Party an opportunity to influence the direction and pace of policy implementation without having to achieve this through the ballot system (MacDonald, 1996:227-228);
- the independence of the judiciary;
- substantial devolution of power to the provinces;
- the abolition of homelands; and
- the creation of one sovereign, democratic Republic of South Africa.

The 1994 democratic elections ushered in the Government of National Unity. The Government of National Unity had separate ministries for Agriculture and Land Affairs. The ministry for Agriculture was headed by a minister from the National Party, and the ministry for Land Affairs was headed by a minister from the ANC (Hall, 2004:4). The National Party left the Government of National Unity in 1996, after which the Agriculture and Land Affairs ministries were assigned the status of government departments, with both departments reporting to the Minister of Agriculture and Land Affairs, who was a minister from the ANC (Hall, 2004:4).

5.2.2 Constitutional mandate

The interim Constitution, 1993 (Section 1 (1)), which came into effect on 27 April 1994 (and was to a large extent repealed in 1996), and the Constitution of the Republic of South Africa, 1996, constitute the new democratic Republic of South Africa as one sovereign state. The interim Constitution, 1993, provided the following measures:

- interim arrangements for governing and administering the state during the transitional period, towards adoption of a new constitution for the country; and
- principles which served as the foundation upon which the new constitution shall be developed.

The Constitution of the Republic of South Africa, 1996, is the supreme law of the Republic. Any law or conduct that is inconsistent with the Constitution is invalid (Constitution, 1996, 1 (2)).

5.2.3 Political accountability

The executive authority of the Republic is vested in the President (Constitution, 1996, 85 (1)). The President exercises this authority together with other members of the Cabinet (Constitution, 1996, 85 (2)). Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions (Constitution, 1996, 92 (2)), and must furnish Parliament with full and regular reports concerning matters under their control (Constitution, 1996, 92 (3) (b)).

The executive authority of a province is vested in the Premier of a province (Constitution, 1996, 125 (1)), which authority the Premier exercises with other members of the Executive Council (Constitution, 1996, 125 (2)). Members of the Executive Council (MECs) are accountable collectively and individually to the provincial legislature for the exercise of their powers and the performance of their functions (Constitution, 1996, 133 (2)).

5.2.4 Transformation of the South African Public Service

The Government of National Unity inherited from the apartheid Government a fragmented (i.e. apartheid Government administration plus the homeland government administrations), rule-based public service characterised by too much central government control (State of the Public Service Report, 2004:33; White Paper on Transformation of the Public Service, 1995:3). Giliomee (1995:89) estimates that between 1980 and 1991, the employment level in the central Government rose by 75%, which the Government accommodated through increasing the tax burden as well as borrowing money. However, the interest on public debt grew on a comparative basis from 5% in the year 1975 to 19% by the year 1992, resulting in debt servicing being the single largest cost item in the Government's budget (Gilliomee, 1995:89).

In an effort to integrate the fragmented administrations, the Government of National Unity promulgated the Public Service Act (Proclamation No. 103 of 1994), as amended. In dealing with the administrative transformation for the new Government, the White Paper on Transformation of the Public Service (1995:14) proposed that the Government should draw lessons from other countries that have embarked on or completed similar processes of administrative reform. The proposals made in the White Paper on Transformation of the Public Service (1995:14-15) were as follows:

- anchoring public administration "upon principles of sound management, enterprise, and a clear sense of mission";
- defining the role of the state from that of being a 'principal agent' in social and economic development, to that where the state facilitates and guides development such that the country is fully integrated with the world economy;
- cutting state expenditure and the size of the Public Service, and sub-contracting out the functions and services of the Government on a competitive basis;
- re-defining the political and administrative relationship by introducing measures such as:
    - clear lines of responsibility;
    - performance targets, measures and monitoring; and
    - promoting greater devolution of managerial autonomy and resource control;
- putting greater emphasis on quality, efficiency and effectiveness;

- promoting an organisational culture with a service ethos, which is more customer oriented;
- introduction of performance appraisal and incentive systems;
- reforming planning (including budgeting systems) and control systems to make them more performance and output oriented; and
- putting greater reliance on information and computerised management systems.

The above proposals as contained in the White Paper on Transformation of the Public Service (1995:14-15), are similar to the administrative reforms undertaken by a number of countries and referred to earlier as the New Public Management. Most of these proposals were endorsed in the Presidential Review Commission Report (1998), and have been given expression in a number of policies such as:

- the Public Finance Management Act (1/1999), in terms of clarifying the roles and responsibilities of the executive authority and the accounting officer as discussed below, performance targeting and economic values of efficiency, effectiveness, and economy;
- the extent to which the Government has gone about through its supply chain management policies, in terms of sub-contracting the provision of government functions and services; and
- the Public Service Laws Amendment Act (47/1997), which clarifies the roles and responsibilities pertaining to appointment, promotion and transfer of staff by assigning them to the Executive Authority, or any person to whom the Executive Authority may delegate such authority.

5.2.5 Organisational arrangements

The South African government adopted a number of measures in 1994, which describes the organisational structure of the Government, as well as prescribe how the various state entities should co-operate in the implementation of government policy. The discussion below will consider the legislative and broad policy measures, which define the rationale and modalities adopted by the state entities in administering government policy in general, with the context being narrowed to specifically discuss their impact on the administration of the LRAD programme.

The intergovernmental arrangements governing the administration of the LRAD programme can be traced firstly from the interim Constitution of the country. In Schedule 4 (xvi) of the interim Constitution, 1993, it is stipulated that the Government must be structured at national, provincial and local levels. In the Constitution of the Republic of South Africa, 1996, (Section 40, (1)), spheres were substituted for levels, and described as distinctive, interdependent and interrelated.

(a) *Distinctive* means that the three spheres have powers to make decisions and exercise their constitutionally conferred functions within the framework of national legislation and policies, on all matters affecting them. All spheres of government and organs of state are therefore implored to adhere to the following principles:

- respect the constitutional status, institutions, powers and functions of government in the other spheres;
- not assume any power or function except those conferred on them in terms of the Constitution; and
- exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in other spheres.

(b) *Interdependent* means that they are dependent on one another for resources and information. They must support one another to enable the country as a whole to function as one unit. The following constitutional principles have relevance (Section 41, 1(c)):

- provide effective, transparent, accountable and coherent government for the Republic as a whole.

(c) *Interrelated* means that the overall performance of government is affected by the operations of the spheres of government as individual entities, as well as in relation to one another. The following constitutional principle has relevance (Section 41, 1(h)):

- co-operate with one another in mutual trust and good faith by
    - fostering friendly relations;
    - assisting and supporting one another;
    - informing one another of, and consulting one another on matters of common interest;
    - co-ordinating their actions and legislation with one another;

- adhering to agreed procedures; and
- avoiding legal proceedings against one another.

The Constitution of the Republic of South Africa, 1996 (Section103, (1)), establishes the nine provinces into which the Republic is administratively divided, as well as their boundaries. These provinces are:

- Eastern Cape
- Free State
- Gauteng
- KwaZulu-Natal
- Mpumalanga
- Northern Cape
- Limpopo
- North West
- Western Cape

In terms of Schedules 4 and 5 of the Constitution, 1996, the powers and functions at the national and provincial spheres must include:

- those that must be performed exclusively by each sphere; and
- those that must be performed concurrently by both spheres.

The functional areas which have not been explicitly allocated to provinces and municipalities as concurrent or exclusive functions (i.e. the remaining unwritten functions) are performed by the national Government. This arrangement is characteristic of a 'weak' federation since "the powers of the federated units are diminished by constitutional limitations" (Botes *et al.*, 1992:39-40).

Schedule 6 of the interim Constitution, 1993, provided for agriculture as one of the legislative competencies of provinces. The interim Constitution, 1993, did not specify whether provinces have exclusive or concurrent powers in this regard. However, in the preface to the White Paper on Agriculture (1995), the then Minister of Agriculture said the following: "According to Schedule 6 of the Constitution, agriculture is a provincial function. One policy implication thereof is that the Departments of Agriculture at national and provincial levels must develop their own agricultural policies. However, agriculture

cannot be divided into separate national and provincial compartments. The overall management of agriculture had to promote policy goals for both levels". In terms of the foregoing statement by the Minister, a national minister had the responsibility to provide the overarching framework within which provinces were to develop their own legislation to address their own province's specific circumstances.

According to Schedules 4 and 5 of the Constitution, 1996, land reform is a functional responsibility of the national Government, while agriculture is a concurrent function between the national Government and provincial governments.

5.2.6 Administration of intergovernmental relations in South Africa

The policy provisions with regard to intergovernmental relations in South Africa, as prescribed in the Constitution of the country, 1996 (Section 40, (1)), are given practical application through the Intergovernmental Fiscal Relations Act (97/1997), and the Intergovernmental Relations Framework Act (13/2005). The main purpose of the Intergovernmental Fiscal Relations Framework Act (97/1997) is to:

- promote co-operation between national, provincial and local spheres of government on fiscal, budgetary and financial matters; and
- to prescribe a process for the determination of an equitable sharing and allocation of revenue raised nationally.

In terms of Section 9 of the Intergovernmental Fiscal Relations Act (97/1997, 1 (a-c)), the Financial and Fiscal Commission must at least 10 months before the start of each financial year, submit to both houses of Parliament, the provincial legislatures and the Minister of Finance, recommendations for tabling in both houses of Parliament on:

- how revenue raised nationally will be shared among the three spheres of government;
- the amounts that each province will receive; and
- any other allocations to be made to provincial and local governments from national revenue, as well as the conditions to be attached to such funds.

The Intergovernmental Relations Framework Act (13/2005) provides a framework for promoting, facilitating and governing intergovernmental relations among the three

spheres of government, as well as among organs of state. The Intergovernmental Relations Framework Act (13/2005) also has as its object to facilitate co-ordination in the implementation of policy, as well as legislation authorising policy, including:

- coherent government;
- effective provision of services;
- monitoring implementation of policy and legislation; and
- realisation of national priorities.

In terms of promoting the object of the Intergovernmental Relations Framework Act (13/2005), organs of state and spheres of government are urged to ensure that they achieve the following in conducting their affairs, namely:

- that when performing their statutory functions, they take into account the circumstances, material interests and budgets of other governments and organs of state;
- to consult other affected governments and organs of state in accordance with formal procedures;
- that when implementing policy and legislation, they must co-ordinate their actions with those of other affected governments and organs of state;
- to avoid unnecessary and wasteful duplication of activities;
- to ensure that there is sufficient institutional capacity and effective procedures:
    - for consultation, co-operation and information-sharing with other organs of state; and
    - to respond promptly to requests from other organs of state for consultation, co-operation and information sharing; and
- to participate in intergovernmental structures of which they are members, with a view of settling disputes and problems when they arise.

With regard to the administration of government programmes, chapter 2 of the Intergovernmental Relations Framework Act (13/2005, 9-12 & 30) proposes the establishment of a national intergovernmental forum, and also validates the Ministerial and Members of Executive Committee (MINMEC) structure that existed before the promulgation of the Intergovernmental Relations Framework Act (13/2005). The Intergovernmental Relations Framework Act (13/2005) also makes provision for the establishment of the Intergovernmental Technical Committees.

Chapter 3 of the Intergovernmental Relations Framework Act (13/2005) proposes the development of implementation protocols where there is joint administration of policy among governments, as well as among organs of state. To that extent, Cabinet has in November 2005 approved the Framework for Managing Joint Programmes, which was developed by the former Department of Provincial and Local Government (now called the Department of Co-operative Governance and Traditional Affairs). Cabinet went further at the January 2006 Cabinet lekgotla by approving the development of templates for interdepartmental protocols, which templates were subsequently developed by the former Department of Provincial and Local Government, and are available on the website of the Department of Co-operative Governance and Traditional Affairs. A *lekgotla* refers to a meeting place by Batswana traditional authorities for consultative purposes with the tribes and for settling tribal disputes, which concept was adopted by the new Government to refer to consultative meetings held by the Cabinet, and attended by other political office-bearers and administrative executives, to discuss government policy.

5.2.7 Financial administration of government programmes

The Public Finance Management Act (1/1999, as amended), and the annual Division of Revenue Act, are the two policy documents prescribing how financial resources should be administered. The Public Finance Management Act (1/1999, as amended) is the principal Act on matters of financial administration in South Africa, and prescribes and gives guidance on, among others, the following:

- allocation of funds to the various entities of government;
- transfer of funds between state entities and non-state entities;
- the responsibilities of accounting officers in respect of management of the resources of the state, including risk management; and
- how the utilisation of these resources should be accounted for.

In terms of the Public Finance Management Act (1/1999, as amended), systems must be put into place to ensure that there is adequate control of the LRAD programme grant funds, as well as other conditional grants made available by the national Government to provinces to support the effective administration of the LRAD programme. Among

others, the Public Finance Management Act (1/1999, as amended), prescribes the following:

- that an accounting officer (head of department) should be appointed for each department (Section 31 (1));
- the general responsibilities of accounting officers pertaining to efficient, effective and economical management of the grant funds (Section 38 (1));
- the responsibilities of accounting officers pertaining to budgetary control (Section 39 (1));
- the reporting responsibilities of accounting officers in relation to the utilisation of allocated funds (Section 40 (1));
- the financial responsibilities of political office-bearers or executive authorities in terms of accountability to the legislature (Sections 63 to 65);
- the key role of the National Treasury in terms of co-ordination of intergovernmental financial and fiscal relations (Section 6 (1)); and
- that the National Treasury must monitor the implementation of provincial budgets (Section 6 (1)).

The annual Division of Revenue Act is promulgated in accordance with the provisions of the Intergovernmental Relations Fiscal Act (97/1997). It outlines how revenue raised nationally will be divided among the three spheres of government, national, provincial and local government. The Act also makes specific provision for national programmes and projects implemented by provinces and local municipalities, as well as the conditions for transferring funds, managing the funds, and accounting for the use of funds, in line with the provisions of the Public Finance Management Act (1/1999, as amended).

In terms of expanding the provision of agricultural support services as well as promoting and facilitating agricultural development in provinces, Schedule 4 of the annual Division of Revenue Act makes provisions for resourcing and accounting for the CASP conditional grant. The annual Division of Revenue Act prescribes the CASP budget allocations for all nine provinces for the three-year Medium-Term Expenditure Framework (MTEF) budget cycle, as, for example, indicated in the 2005 Act (1/2005), and reflected in Table 5.1.

Table 5.1 CASP allocations and projections in terms of annual Division of Revenue Act

Name of province	2005/06 CASP allocation R'000	Projection for 2006/07 R'000	Projection for 2007/08 R'000
Eastern Cape	47 552	57 061	69 838
Free State	21 088	23 306	38 084
Gauteng	5 727	6 873	19 651
KwaZulu-Natal	46 270	55 524	68 301
Limpopo	41 786	50 143	62 921
Mpumalanga	23 629	28 355	41 133
Northern Cape	13 148	15 777	28 555
North West	33 594	40 313	53 091
Western Cape	17 206	20 648	33 426

From the CASP budget, the provincial departments of agriculture would decide on the projects to be funded in line with the provisions of CASP, and will then make a submission of recommended projects to the DOA for approval. The DOA will upon approval of projects:

- inform the province of its decision;
- make part payments to provinces through the provincial treasury; and
- conduct monitoring and evaluation based on quarterly and other special reports that provinces are obliged to submit.

Funds for land redistribution do not form part of conditional grants allocated to provinces, but are allocated to the national Department of Land Affairs, from which they are managed centrally. Provincial chief directors have been delegated powers (LRAD Policy Framework, 2001:11) to approve land redistribution projects in terms of the provisions of the Public Finance Management Act (1/1999, as amended).

5.3 LAND REFORM POLICY IN SOUTH AFRICA

The official policy of the ANC with regard to land policy prior to and in the early 1990s was that the state should play an interventionist role of nationalisation (Ottaway, 1996:133; Weideman, 2004:225). The policy of nationalisation is articulated in the Freedom Charter. The Freedom Charter was adopted by the Congress of the People in 1955 and it states that "restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and hunger".

According to the Freedom Charter (1955), the state is to assist African farmers with "...implements, seed, tractors and dams to save the soil and assist the tillers". The vision of the ANC in terms of nationalisation and egalitarianism was revised during the transition period of the 1990s in the face of pressure from international and domestic business interests (Habib *et al*., 1998:104; MacDonald, 1996:226). By the 1990s, the ANC had not formulated any substantive policy on land and agrarian issues, other than references that could be traced back to the Freedom Charter (Weideman, 2004:225). In the ANC document titled 'Constitutional Guidelines for a Democratic South Africa (1989), the ANC reiterates the provisions of the Freedom Charter (though revised somewhat) by saying that:

- the state must devise and implement a land reform programme that will include and resolve the following issues:
    - abolition of racial restrictions on ownership and use of land; and
    - implementation of land reforms in conformity with the principle of affirmative action, taking into account the status of victims of forced removals.

After the unbanning of the ANC, it began engaging in discussions within the country pertaining to land reform, using the National Land Commission and regional land commissions, which were coalitions of NGOs and civic movements that were involved during the apartheid struggles for the restoration of land rights to Black people (Hall, 2004:5; Weideman, 2004:225-6). The National Land Commission was dissolved at the end of 1992 due to the failure of regional commissions, and it was subsumed under the department of Economic Planning as the Land and Agriculture Desk (Weideman, 2004:226).

Before the new democratic political dispensation could be ushered in, the National Party government in anticipation of the political changes that were imminent in South Africa, introduced the White Paper on Land Reform in 1991. The White Paper, 1991 (2), proposed the adoption of the Abolition of Racially Based Land Measures Bill, 1991, to repeal the 1913 and 1936 Land Acts, and other laws promoting racial segregation. As a result of this initiative, the Abolition of Racially Based Land Measures Act (108/1991, as amended) was enacted, resulting in the repeal of the 1913 and 1936 Land Acts, the Group Areas Act (36/1966), the Asiatic Land Tenure Act (28/1946) and the Black Communities Development Act (4/1984).

The White Paper on Land Reform (1991), which had its primary focus more on agrarian reform as well as retaining property ownership for those who were advantaged by previous discriminatory land policies (Crush & Jeeves, 1993:352; Ottaway, 1996:134; Weideman, 2004:226), suggested that the restoration of land to victims of forced removals should not be undertaken given that:

- it would not be feasible;
- it has potential for sparking conflict;
- it would be difficult to implement due to overlapping and contradictory claims being lodged; and
- a return to the past would disrupt the country's current pace and direction of development.

The Advisory Commission on Land Allocation (ACLA) was established towards the end of 1991, to advise on the restoration of land lost due to past discriminatory laws, and to confine its scope to unutilised state-owned land (Francis & Williams, 1993:382; Weideman, 2004:221). This was a position aimed at maintaining the status quo in terms of land ownership (Crush & Jeeves, 1993:355), a position which was rejected by the National Land Committee (NLC) and its affiliates, affected communities, as well as the ANC (Budlender, de Klerk, Dolny in Crush & Jeeves, 1993:352; Francis & Williams, 1993:381; Weideman, 2004:221).

With regard to land redistribution in particular, the White Paper on Land Reform, 1991 (12, 13), argued for the maintenance of the commercial agriculture sector and a market-driven process to land redistribution (cf. pp 141, 142, 152), which promotes and opens

access to private ownership of land. The White Paper on Land Reform, 1991 (13), in insisting that structural changes to the commercial agriculture must be made through market forces, and that government support in terms of access to land and agricultural services will be done on an equitable basis subject to the uniform application of the principle of merit, did not have regard for the conditions of the previously disadvantaged individuals, which impact on their ability to acquire and make productive use of agricultural land. The only instance, in the White Paper on Land Reform, 1991 (14), where the Government was explicit in terms of land redistribution for African farmers, was in terms of the 474 000 hectares of South African Development Trust (SADT) land which fell outside the boundaries of the self-governing territories and was not occupied by communities. Two Acts were promulgated as a result, namely the Distribution and Transfer of Certain Land Act (119/1993) and the Provision of Certain Land for Settlement Act (126/1993, as amended). These measures, which did not deal with the issues of equity and restitution, as well as the role of agriculture in a country faced by rapid population increase (Ottaway, 1996:134), were also rejected by land activists (cf. pp 143, 151) on the basis that the playing field was not level because African people could not be expected to purchase land without state intervention, after having been impoverished by the apartheid system (Weideman, 2004:222-3).

The market-led approach to land redistribution was consistent with the policy proposals of the World Bank, which began to play a prominent role in the South African land and agrarian policy domain since the early 1990s (Weideman, 2004:223). One of the recommendations by the World Bank was the use of cash grants to assist previously disadvantaged individuals to own land (Lyne and Darroch, 2003:4). This proposal was motivated by the fact that the market value of agricultural land was more than its productive value, therefore financing land reform purchase transactions via mortgage bonds would have been disadvantageous for beneficiaries since they would not have been in a position to service their bonds from the proceeds of the sale of agricultural produce only (Lyne & Darroch, 2003:4). Nieuwoudt and Vink (in Lyne & Darroch, 2003:5) are of the opinion that by giving out once-off cash grants would not make it easier for previously disadvantaged farmers to buy agricultural land by way of mortgage loans. This they attributed to:

- the underlying problem of high inflation during that period in South Africa;
- the low returns to investment relative to the market value of agricultural land; and

- the cash flow difficulties that farmers will encounter in the early years of farming, which will make it difficult for them to service their mortgage loans.

Nieuwoudt and Vink (in Lyne & Darroch, 2003:5) recommended that the Government should, over a number of years, rather consider graduating farmers out of the subsidy by subsidising interest rates that farmers were paying as this would impact much more positively on their cash flow.

A number of factors could have been at play during the negotiation process which prevented the previously dispossessed and marginalised from securing institutional and policy reforms they would have wanted (Bernstein in Maganya and Houghton, 1996:73). A 'compromised position' on land reform was reached in South Africa (Bernstein in Maganya *et al.*, 1996:73; Hall, 2004:654; Walker, 2005:812; Weideman, 2004:226) based on the following:

- the realities of among others, the emergence of a global neo-liberal agenda (Habib *et al.*, 1998:102);
- the need to give assurances that the new Government would not embark on revolutionary measures such as nationalising the economy (Handley, 2000:218);
- the challenge of fiscal restraint, which impacts negatively on nationalisation as an option, a constraint that the World Bank, which has been against state-led land reform (cf. p 151), was cautioning against in all countries where it introduced market-led programmes;
- the World Bank's proposal of a market-led (cf. pp 141, 151), grant-driven programme of land redistribution, of which it was estimated (in 1993) that it would cost the state R17.5 billion to transfer or redistribute 30% of agricultural land over five years;
- the apparent lack of a coherent land and agrarian policy from the ANC side; and
- the reality of having to strike certain compromises during the negotiation process of which one such was relenting to the demands from the National Party for protection of property rights (a key request to ensure that agricultural land held by White farmers enjoys protection and can only change hands to Black people through market mechanisms) in exchange for guarantees for the restitution of land that Black people were dispossessed of (Hall, 2004:656; Walker, 2005:812-813).

This compromise position, which is reflected in the ANC's 1994 election manifesto, the ANC's Reconstruction and Development Programme, the Land Policy (1995) and the Constitution of the Republic of South Africa, 1996, is in line with the policy proposals made by the World Bank during the transition period prior to April 1994 (Hall, 2004:4-5, Weideman, 2004:224).

5.3.1 The land reform policy after 1994

The background to the land reform policy of South Africa was discussed above. It was highlighted that as much as the views of the ANC pertaining to land reform can be traced back to the Freedom Charter, the executive policy of the Government as discussed below is the product of a negotiated process.

5.3.1.1 The executive policy of the Government

The executive policy of the new Government pertaining to land reform broadly and land redistribution in particular is based on a number of policy provisions. The Provision of Land and Assistance Act (126/1993) is the enabling policy document with regard to land reform. The Act enables the Minister of Rural Development and Land Affairs to approve the LRAD grant, which is instrumental in the acquisition of agricultural land. According to Section 10 (1) of the Act, the Minister may, from money appropriated by Parliament-

- acquire agricultural land, for the purpose of achieving the goals and objectives of, among others, the LRAD programme;
- provide applicants who qualify in terms of the provisions of the LRAD programme with grants for the following purpose:
    - for the acquisition of agricultural land for production;
    - for the acquisition of capital assets, required for the post-transfer development of acquired agricultural land;
    - to acquire an equity share in an existing agricultural enterprise, such as the equity scheme proposed in the LRAD programme;
    - to facilitate the planning of agricultural land, which includes property valuation costs; and
    - to facilitate the acquisition of agricultural land by municipalities through the commonage scheme.

According to Section 10 (2) of the Act, persons who may be allocated a grant for the acquisition of agricultural land are:

- those who do not have land, or who have limited access to land, and who wish to gain access to land or to additional land;
- those who have been dispossessed of land or of a right to land, but who do not have a right to restitution in terms of the Restitution of Land Rights Act (22/1994).

5.3.1.2 The political implementation policy

The South African government has, since 1994, embarked on a rigorous programme of land reform policy development. The process of policy development was guided by the principles embodied in the political policy of the ANC-led government, and the Reconstruction and Development Programme.

The consultation process with regard to development of the land policy was instituted when the Department of Land Affairs issued a framework document on Land Policy in May 1995 for public comment (White Paper on Land Policy, 1995). The White Paper on Land Policy (1995) is the culmination of this extensive process of consultation and opinion-gathering from experts, NGOs and ordinary people.

The Constitution of the Republic of South Africa, 1996 (Section 25), makes explicit provision for land reform as follows:

- that the country is committed to land reform, which is a matter of national interest, and to bringing about equitable access to all of South Africa's natural resources (Section 25 (4) (a));
- that the right to own property is guaranteed (Section 25 (1);
- that property may be expropriated,
    - for a public purpose or in the public interest (Section 25 (2) (a)), and
    - subject to a just and equitable compensation being made;
- that the amount of compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including:
    - the current use of the property;

- the history of the acquisition and use of the property;
- the market value of the property;
- the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- the purpose of the expropriation.

The above provisions are equally applicable when just and equitable compensation has to be determined for agricultural land sold through market-led programmes. Some of the farms sold through the LRAD programme have benefited previously from Government subsidies, which consisted of the acquisition and beneficial capital improvement of such properties. These investments by the state should be considered in order to prevent owners of such properties unjustly receiving double benefit from the state. The first benefit is from the initial investment made by the state which had the effect of bringing about beneficial improvement on the farm and the market value of the farm, while the second benefit is from the subsequent purchase made by the state through the LRAD programme thus, the state would be paying for the added value it has made through its initial investment on the farm, and which added value will be pocketed by the farm owner. This factor, if not checked, can artificially inflate land prices, and can be costly to the state. The achievement of land redistribution targets can also be negatively affected, as well as the equitable access to South Africa's natural resources that the nation aspires for in the Constitution, 1996.

The central thrust of the land policy is the land reform programme (White Paper on Land Policy, 1995). This has been sub-divided into three sub-programmes namely:

- land restitution;
- land redistribution; and
- tenure reform.

According to the White Paper on Land Policy, 1995, land restitution deals with cases of forced removals which took place after 19 June 1913, and emanating from the Natives Land Act (27/1913). Land redistribution provides the previously disadvantaged rural and urban dwellers with access to land for residential and productive purposes (White Paper on Land Policy, 1995). Land tenure reform aims at providing tenure security for all

through a review of existing legislation, land policies, as well as administrative practices (White Paper on Land Policy, 1995).

In transforming the land and agrarian landscape, the following are the key issues that the Land Policy, 1995, was expected to adequately deal with if it were (White Paper on Land Policy, 1995):

- dealing with the injustices of racially based land dispossession of the past;
- ensuring a more equitable distribution of land ownership;
- reducing poverty and contribute to economic growth;
- ensuring secure tenure for all; and
- putting in place a land management system that supports sustainable land use patterns, and will facilitate rapid land release for development.

However, the Land Policy, 1995, recognises that the success of the programme does not depend only on access to land, but also on the achievement of other instrumental objectives. First among these is the provision of integrated government policy, with respect to support services, infrastructural and other development programmes. The second instrumental objective involves the development of an effective and accessible institutional framework for service delivery, characterised by a strong partnership between national-, provincial-, and local-sphere administrations.

It is the impact of these instrumental objectives that is at the core of this research. However, the following sub-section will give a description of the LRAD programme, which is the programme through which the major efforts by the Government of redistributing agricultural land are taking place.

5.3.2 The LRAD programme

The programme has been sub-divided into two sub-programmes namely:

- redistribution of agricultural land held by private individuals and the state (LRAD Policy Framework, 2001:5); and
- redistribution of agricultural land that deals specifically with commonage projects, with the aim of ensuring people's access to municipal and tribal land for agricultural and ecotourism purposes (LRAD Policy Framework, 2001:5).

5.3.2.1 Origins of the LRAD programme

The forerunner of the LRAD programme is the SLAG programme (Hall, 2004:25; Lyne & Darroch, 2003:4). The SLAG programme was a land redistribution programme targeting previously disadvantaged South Africans, who were poor and landless (Hall, 2004:25; Lyne & Darroch, 2003:4; White Paper on Land Policy, 2005). Beneficiaries had to earn an average household income of less than R1 500 per month to qualify for a cash grant of R15 000-R16 000 per household (White Paper on Land Policy, 1995). The DLA had anticipated that the beneficiary households would supplement the small cash grant with a bank loan, which was to enable them to acquire much bigger properties as well as sustain themselves (Lyne & Darroch, 2003:4). However, the means test excluded beneficiary households who earned more than R1 500 per month and ended up marginalising those who were creditworthy (Lyne & Darroch, 2003:4). This is because those who qualified for the SLAG programme were not creditworthy in terms of the risk profile assessment of banks, and those who were creditworthy were excluded for the SLAG programme.

Beneficiaries were allowed to pool their grants by establishing a legal entity (cf. p 142), which was a vehicle they used to buy land for their collective ownership and beneficial use (Hall, 2004:28; Lyne & Darroch, 2003:4; White Paper on Land Policy, 2005). Given the expensive nature of commercial agricultural land, small parcels of land (relative to group size) were purchased resulting in a large number of households crowded on a small farm which was insufficient to address their livelihood needs (Lyne & Darroch, 2003:4). By the end of 2000, the SLAG programme had transferred a total of 780,407 hectares (Lyne & Darroch, 2003:4). Given the dismal performance of the SLAG

programme, a moratorium was imposed by the former Minister of Agriculture in July 1999 on its implementation, with an instruction that the grant programme be redesigned (Hall, 2004:6).

This intervention by the Minister resulted in the LRAD programme, which was officially implemented with effect from August 2001 (Hall, 2004:8; Lyne & Darroch, 2003:4). According to Hall (2004:8), "...tussles between the DLA and NDA [Department of Agriculture] over drafts of their integrated programme of LRAD demonstrated difficulties of co-operation between the two departments", which co-operation improved later as evidenced in policy-thinking and departmental relations than in "...tangible contributions by the NDA in supporting land reform" (Hall, 2004:8).

The LRAD programme departed from some of the policy provisions of the SLAG programme in that:

- the resource endowed individuals from the previously disadvantaged background were accommodated;
- individuals also had the opportunity to purchase farms;
- the size of the grant was increased;
- assets relevant to the envisaged production enterprise/s, as well as debt, could be used to supplement the grant;
- the increased size of the grant as well as the use of own contribution to leverage the grant increased the creditworthiness of beneficiaries, thus giving them an opportunity to apply for loans; and
- no longer was land acquired just to sustain basic livelihood needs, but also for commercial production, thus helping to transform the agricultural sector in South Africa.

Lutchmiah, Pillay, Govender and Khanyile (2004:663) are of the opinion that merely tinkering with the policy instruments of the SLAG programme will not bring about success. They are of the view that unless problems that have constrained the redistribution programme before, namely:

- inappropriate use of consultants;
- shortage of willing sellers in the market; and
- bureaucratic inefficiency,

are dealt with, the LRAD programme will not succeed as anticipated.

5.3.2.2 Goals and objectives

The strategic objectives as listed in the LRAD Policy Framework (2001:5) are as follows:

- contributing to the redistribution of the country's agricultural land over 15 years (30% of the approximately 86 million hectares of white-owned agricultural land by 2014);
- improving nutrition and incomes of the rural poor, who want to farm on subsistence or commercial basis;
- decongesting overcrowded former homeland areas; and
- expanding opportunities for women and young people who stay in rural areas.

The following underlying principles guide the implementation process, and are crucial for the achievement of the above-mentioned objectives (LRAD Policy Framework, 2001:6).

The LRAD programme is unified, basic and flexible. Beneficiaries can use it in ways according to their objectives and resources. Beneficiaries make a contribution (in kind or cash) in varying amounts according to their abilities, a factor which underlines its flexibility. Given the flexible and demand-driven nature of the programme (cf. p 142), beneficiaries can define the type and size of projects they want to undertake.

The mode of implementation is adopted in the interest of maximum participation and empowerment of beneficiaries, speed of approval and quality of outcomes. Implementation is thus decentralised, and officials at local municipality level provide opinions and assistance in preparation of project proposals, but do not approve the applications.

Interdepartmental collaboration is to take place at all spheres of the Government, with district government assuming a key role. In line with the integrated development approach of the Government, projects will be undertaken in a manner consistent with district and provincial spatial development plans. Projects are reviewed and approved at provincial sphere and *ex-post* audits and monitoring will substitute a lengthy *ex-ante* approval process.

The above principles can be summarised in terms of the following:

- participatory development, whereby beneficiaries play a role in the design of the project;
- decentralised administration of the programme; and
- integrated planning of LRAD projects.

5.3.2.3 Types of projects undertaken through the LRAD programme

The LRAD programme undertakes a number of projects, according to the needs of the beneficiaries. Projects falling under these broad categories will be catered for, but support is not limited to these categories of projects (LRAD Policy Framework, 2001:5).

Food safety-net projects

Food safety-net refers to projects where participants would acquire land for food crop and/or livestock production. The purpose of such land acquisition is to improve household food security. These are the beneficiaries who were targeted by the SLAG programme, which the LRAD programme also accommodates.

Equity schemes

Equity schemes refer to projects where participants (mainly farm workers) would use their own contribution plus the LRAD programme grant to acquire a stake or equity into an existing agricultural enterprise. Acquiring the new status of being co-owners of the enterprise brings with it challenges, namely:

- the Government ensuring that real empowerment takes place;
- the Government ensuring that equity schemes are structured properly and that land owners do not take advantage of farm workers through equity schemes, which give them all the advantages but disadvantages farm workers; and
- the transition by beneficiaries from being farm workers to being farm owners, and even directors of companies.

Production for markets

Projects that produce for markets are those where beneficiaries would use a combination of their own contribution, the LRAD programme grant, as well as bank loans where necessary, to purchase commercial agricultural enterprises. These are the farmers who were previously excluded by the SLAG programme, and who are the main target of the LRAD programme.

It is assumed that these farmers would have more farming experience than those producing for household food consumption; hence their objective is to produce for national and international markets. However, in order for them to produce for the markets, post-transfer support would be required from the Government.

Agriculture in communal areas

Assistance is given in this regard to people living in communal areas, who already enjoy access to communal land, but cannot make productive use of the land due to limitations of poor infrastructure. Participants can make use of the combination of own contribution plus the LRAD programme grant to make improvements on the land, as well as put up the necessary infrastructure.

5.3.2.4 Intergovernmental structures for LRAD programme co-ordination

Intergovernmental structures play an important role in co-ordination of policy implementation. The brief discussion that follows considers the intergovernmental structures having an impact on the implementation of the LRAD programme.

Political executive structures

The Minister of Agriculture and Land Affairs has been vested with the executive authority of all policy matters pertaining to land reform. Given the fact that accountability for implementation of government policies and programmes in the province is vested with the Premier, it is important to have mechanisms for co-ordination of implementation of government programmes such as the LRAD programme. The Ministerial and Members

of Executive Committee (MINMEC) was responsible for co-ordination of policy nationally. This is the structure where the Minister for Agriculture and Land Affairs meets with the MECs to discuss policy matters pertaining to agriculture and land affairs. This structure has since changed name and is called the National Integrated Forum on Agriculture and Lands (NIFAL), after the promulgation of the Intergovernmental Relations Framework Act (13/2005).

The MEC for the DACE is accountable to the Premier, and assists by virtue of serving in the MINMEC for Agriculture and Land Affairs in bringing synergy between the implementation policy goals and objectives of the national Ministry for Agriculture and Land Affairs and the policy implementation activities in the provincial sphere. The Executive Committee of the province appoints the appropriate MEC to chair the Provincial Land Reform Co-ordinating Committee (PLRCC), which all along has been the MEC for the Department of Agriculture, Conservation and Environment. The PLRCC is the political structure responsible for co-ordination of land reform policy implementation within the province. It is made up of key stakeholders, and is expected to meet on a quarterly basis to assess, among others, the performance of the Provincial Grant Committee (PGC), which approves and disburses LRAD programme grants.

Administrative executive structures

From the administrative executive point of view, the programme has assigned joint and separate responsibilities to both departments of Agriculture and Land Affairs with regard to policy formulation, implementation, monitoring, evaluation and review. However, the DLA had the primary responsibility of ensuring the acquisition of land in terms of the Provisions of the Land and Assistance Act (126/1993). One of the joint responsibilities assigned to both departments was to co-ordinate policy issues and inter-departmental activities. The Intergovernmental Technical Committee on Agriculture and Land (ITCAL) has been the technical co-ordinating structure with regard to LRAD implementation. In terms of accountability with regard to the LRAD programme, the accounting officers of both departments are jointly and severally accountable to the national Minister.

5.3.2.5 Decentralisation of functions

Implementation of the LRAD policy at provincial level was initially by means of two routes, namely the DLA route and the Land Bank route. These routes were not mutually exclusive since they had to converge within the DLA, which had the constitutional mandate to manage all the processes of acquisition of land under the LRAD programme. The DLA route will be introduced briefly below under the heading deconcentration, and will be unpacked in more detail in Chapter 6. The Land Bank route will be covered in much more detail under the heading delegation of power.

Deconcentration of functions to provincial land reform offices

The deconcentration arrangement is consistent with the situation pertaining to the PLROs. The function of implementation of the Land Reform programme of the Government was assigned to the DLA and the Land Claims Commission. The responsibilities to administer the LRAD programme have been deconcentrated to the PLROs. The PLROs are a part of the administrative structure of the DLA and are managed from the national sphere. Chief Directors, who are administrative heads of the PLROs, were given certain limited decision-making powers in terms of approving grants, as well as managing the utilisation of resources in general.

Devolution of functions to provincial departments of agriculture

Schedule 4 of the Constitution, 1996, outlines the functional areas between the provincial departments of agriculture and the DOA. *Agriculture* is defined as a concurrent function between national and provincial spheres, with the functional area of the national sphere mainly confined to policy formulation, monitoring and evaluation, whereas the provincial sphere of government has more responsibilities regarding policy implementation. Section 125 (2 (b)) of the Constitution, 1996, vests the executive authority of the province in the Premier, with regard to implementation of all national legislation within the functional areas listed in Schedules 4 and 5 of the Constitution, 1996. The exception occurs where national legislation prescribes otherwise. Section 125 (2 (e)) of the Constitution, 1996, also emphasises the co-ordination of the functions of the provincial administration and its departments.

Delegation of functions to the Land Bank

The Land Bank, which was, during the period under review, an agency of the DOA, was delegated some functions regarding the implementation of the LRAD programme by the DLA. This was done through an agency agreement signed by both institutions in August 2001. The agency agreement between the DLA and the Land Bank makes the following provisions in terms of the rationale for and management of the agency agreement:

The rationale for the agency agreement between the DLA and the Land Bank was that participants or beneficiaries of the LRAD programme would from time to time require mortgage loans to augment the grant (cf. pp 142, 151), which may not be sufficient to finance the acquisition of farms and agribusiness properties, as well as establish viable commercial farms. The Land Bank had, in terms of fulfilling its developmental mandate from the Government, already developed financial products, which aimed at assisting the previously disadvantaged farmers to acquire farms and agribusiness properties, and was well placed to assist LRAD programme beneficiaries.

The route of implementing the LRAD programme via financial institutions supplements the limited financial and human resources made available by the Government to deliver services in terms of the programme. It also speeds up delivery of agricultural land as envisaged in the land redistribution targets set by the Government.

Applicants were only considered for the LRAD programme grant funding if they required loan funding from the Land Bank, or wanted to purchase Land Bank-bought property. The LRAD programme grant could also be accessed in conjunction with the lease of land, and where land was donated to the applicant at the time of application. In the case of both leased and donated land, the loan component from the Land Bank would constitute a part of the total funds to be acquired by the applicant.

The role and obligations of the DLA in terms of the agreement were as follows:

- to budget for and transfer grant funds to the Land Bank, to enable it to assist those beneficiaries who meet the stipulated requirements;
- to ensure that the Land Bank complies with the requirements of the Public Finance Management Act (1/1999, as amended), with regard to transfer of public funds to a public or private entity;

- to ensure that the LRAD programme grant funds disbursed are not used for any other purpose than stipulated in the provisions of the LRAD programme;
- to ensure that the Land Bank accounts appropriately to the department in a form prescribed by the Department, in terms of achievement of agreed policy outputs; and
- to monitor and evaluate the LRAD programme and provide leadership in the process of making policy and strategy reviews, as well as inform the Land Bank of any changes.

The Land Bank had specific roles and obligations in terms of the agreement. It had to make available all necessary documents to would-be clients, through its branches, provincial departments of agriculture and/or land affairs as well as district municipalities. The Land Bank also had to supplement LRAD programme amounts transferred to the bank by the Government, by a ratio of up to 1:4, to ensure that LRAD programme applicants who require and qualify for loan funding can be assisted.

In terms of the requirements of the Public Finance Management Act (1/1999, 38, 1 (j)), the Land Bank had to ensure that it develops internal control systems for managing receipt and disbursement of grant funds received from the DLA, with a requirement that two separate designated accounts be opened within the bank, for the Planning Grant Account and for the LRAD Grant Account. In addition to the normal functions of approving applications for loan funding, in accordance with criteria determined by the bank, the Land Bank was granted authority to approve planning funds from the Planning Grant Account, in accordance with criteria determined by the DLA. The Land Bank also had to make recommendations to the DLA, with regard to the approval of applications for the LRAD programme grant, and to oversee design agency agreements on behalf of clients, including disbursement of planning grants, as well as monitoring of the performance of contracted agencies.

Land/farm property valuation had to be undertaken for each application processed, and land title registrations and transfers had to be effected by the Land Bank on the instructions of the purchaser, which costs must be defrayed from the planning grant funds. In terms of project monitoring and evaluation, the Land Bank had to manage the performance of projects, as part of client service and loan performance monitoring, and

perform an audit of all transactions pertaining to funds transferred to the Bank, as well as account to the DLA in terms of the prescribed formats and reporting frequencies.

5.3.2.6 Financial instruments

The DLA is responsible for making budgetary provisions for the various types of grants under its administration. It also had to develop a guideline document for implementers and users alike as to how these grants will be accessed and funds accounted for. In terms of the grants and services document of the Department (Version 7, developed in November 2000), the following types of grants are described.

LRAD planning grant

The objective of the grant is to provide for the payment of services of design agents, property valuers, transaction costs and costs associated with the subdivision of agricultural land. The planning grant is set at a maximum of 15% of the total project costs (grant plus medium- and long-term loan amount) subject to the discretion of the director of a PLRO. Of the 15%, a maximum of 9% can be paid to the design agent for rendering professional services.

The planning grant will only be disbursed to design agents/service providers appointed through the DLA procurement system. Applicants may choose to pay a retainer to design agents, out of their own resources, which can be counted towards their own contribution requirement for the LRAD grant.

Land acquisition grant (LRAD grant)

The grant is meant to improve ownership of agricultural land, and/or access to productive resources by Black South African citizens. The grant could be used (in part, or in its entirety) for the acquisition of land (including the fees and taxes related to the land purchase), for agricultural purposes, to purchase capital assets, and for the development of the land acquired with the LRAD grant (cf. pp 142, 152).

The grant could also be used to acquire equity in an existing agricultural enterprise in terms of the equity scheme, and to secure a lease option for those participants that intend to farm. Successful claimants of the Land Restitution Programme in terms of the Restitution of Land Rights Act (22/1994), Labour Tenants Act (3/1996) and the Extension of Security of Tenure Act (62/1997), who show intention to farm and who are willing to make an own contribution, other than the land secured to them through the Restitution Programme or Tenure grant, can also benefit from the grant.

The LRAD Policy Framework (2001:7-9) outlines the conditions for accessing the LRAD grant. Black South African citizens (African, coloured or Indian), who are 18 years and older and are neither political office-bearers nor public officials, are eligible for the LRAD programme grant. Beneficiaries qualify for grants on a sliding scale, with the minimum grant amount being R20 000/individual and the maximum grant amount being set at R100 000/individual. The amount of the grant which a beneficiary qualifies for is dependent on the amount of matching own contribution that the applicant pledges, with R5 000 own contribution qualifying the applicant to receive the minimum grant of R20 000 and R400 000 own contribution qualifying the applicant to receive the maximum grant of R100 000.

Labour provided by the beneficiaries is recognised as a form of own contribution, and is calculated as the equivalent of R5 000 worth of own contribution, provided the project business plan can show evidence of how the applicants will contribute their labour. The other form of own contribution is contribution in kind in the form of assets such as machinery, equipment and livestock, which must be converted to their cash equivalents. A cash contribution can also be made by the applicants. All three forms of own contributions can be used in any combination according to the needs of the applicant.

Grant for the acquisition and development of land for municipal commonage

The objective of the grant is to enable municipalities to acquire land to extend or create commonage for the purpose of establishing schemes involving the productive use of the land resources (e.g. food gardens, arable land, grazing land, woodlots and ecotourism). It also provides infrastructure on land to be acquired, or on an existing land acquired through the commonage scheme. Ownership of the land acquired through this scheme

would be retained by the municipality, which would, in turn, lease the land to qualifying applicants.

5.3.2.7 Accountability

The political accountability at the national sphere pertaining to the LRAD programme is in terms of the Provision of Land and Assistance Act (126/1993), vested in the Minister of Agriculture and Land Affairs. At the provincial sphere, political accountability for implementation of the LRAD programme vests with the provincial Executive Council, under the leadership of the Premier.

5.3.2.8 Agrarian policy reforms impacting on LRAD programme beneficiaries

A number of policy reforms were introduced by the Government, which impacted directly and indirectly on the beneficiaries of land reform policies. These reforms are briefly discussed below with a view of providing insight into the policy environment within which beneficiaries of land reform policies were to operate.

Sub-division of agricultural land

The Sub-division of Agricultural Land Act (70/1970) regulates matters of sub-division of agricultural land. The object of the Act is to control the sub-division and, in connection therewith, the use of agricultural land. The Act specifically puts specific prohibitions in terms of:

- sub-division of agricultural land (Section 3 (a)); and
- lease of agricultural land for periods longer than 10 years (Section 3 (d)).

The ability of land-owners to sub-divide large land units was critical to the success of the land reform programmes (LRAD Policy Framework, 2001:13). This was because Black farmers were in no financial position to buy large land units which were expensive, thus sub-division of agricultural land enabled LRAD beneficiaries to use their grant funds and own contributions to acquire small parcels of land.

According to the LRAD Policy Framework (2001:13), the prohibitions contained in the Sub-division of Agricultural Land Act (70/1970) were nullified by the provisions of the Land and Assistance Act (126/1993), which allowed for sub-division of agricultural land. The whole of the Sub-division of Agricultural Land Act (70/1970) was repealed in 1998.

Marketing of agricultural produce

The agricultural marketing environment before 1994 was highly regulated and bureaucratic in nature, and fraught with vested interests (Karaan, 2006:52; Van Zyl, Vink, Kirsten & Poonyth, 2001:728). Changes have been brought into the agricultural marketing environment since the 1980s, which, though encapsulated in the old Marketing Act, were piecemeal and unco-ordinated (Van Zyl *et al*., 2001:728).

The Kassier Committee (1992) made recommendations prior to the promulgation of the Marketing of Agricultural Products Act (47/1996), for the establishment of the Agricultural Marketing Council, which could manage the transition towards the new Act, override vested interests, but mainly manage the process of deregulation in the agricultural market (Van Zyl *et al*., 2001:728). While the transition process towards promulgation of the new Agricultural Marketing Act was unfolding, the DOA launched the Broadening Access To Agriculture Thrust (BATAT), which had marketing as one of the components. Through BATAT, the state intervened to assist Black farmers to adjust to a new regime of changes which were unfolding before their own eyes, one of which was the marketing environment, which was gradually becoming more deregulated.

The transition during the deregulated environment in the agriculture sector resulted in some services and grants being withdrawn, which impacted negatively on previously disadvantaged farmers especially in the homeland areas (CASP business plan framework, 2004:6-7). The beneficiaries of land reform programmes were some of those who suffered from this neglect in service provision, especially from a financial support point of view (CASP business plan framework, 2004:6-7). It is not certain whether BATAT achieved its intended objectives given the fact that Black farmers as represented by the National African Farmers Union (NAFU) continued to make clear requests for state intervention in getting them integrated into formal markets (Karaan, 2006:255). The ideals of BATAT were given life in the agriculture sector strategy that was launched in

2003, which has, as one of its core objectives, broadening access and participation by the previously disadvantaged farmers.

Agricultural water management

The Water Act (36/1998) was promulgated due to the realisation that water is a scarce resource and should be managed as an economic commodity (Van Zyl *et al.*, 2001:729). Some of the changes that came with the Act and impacted on the agriculture sector were:

- giving higher priority to water for human consumption and the environment;
- the elimination of subsidised water prices;
- the elimination of the riparian principle of water rights;
- the introduction of integrated catchment management systems; and
- giving much more emphasis on cross-border co-operation (Van Zyl *et al.,* 2001:728).

The Water Act (36/1998) makes provision for beneficiaries of the LRAD programme to receive water subsidies over a five-year period, on a declining scale starting with 100%, and declining by 20% for each passing year. The Government has made this provision to cushion them against the cost of irrigation water in the initial years of their settlement on purchased farms. However, after five years of being on the farm, the Government expects the LRAD programme beneficiaries to have acquired the skills to efficiently manage irrigation water, like any commercial farmer would do, since 100% of the costs of acquiring this precious resource would by then be borne by them.

Post-transfer agricultural support

The CASP came into effect from the 2004/05 financial year. The CASP business plan framework outlines the primary aim of the DOA with this programme as the provision of effective agricultural support and to streamline the provision of services to the targeted four different levels of clients within the farming continuum. One of the responsibilities that the DOA has is to provide agricultural support to beneficiaries of the LRAD programme. According to the CASP business plan framework, the LRAD programme supports only the DLA component of the plan, and no clarity exists on how the

agricultural component should be financed. As a result, in some instances, the agricultural component of post-settlement support has been organised on an ad hoc basis, with the result that its impact has been partial at best.

The need for CASP stems from the Strauss Commission report, which recommended the introduction of financial 'sunrise' subsidies, and the adoption of a 'sunrise' package, with enabling conditions for the beneficiaries of the land reform programme who require loan finance. The purpose of CASP is to:

- establish financing mechanisms - the 'sunrise' subsidies; and
- to streamline and align service delivery within the three spheres of government by creating enabling conditions for land reform beneficiaries through the 'sunrise' package.

It terms of institutional relations, the CASP business plan framework states clearly that the need to provide post-settlement support to farmers who are beneficiaries of land restitution, redistribution and tenure reform programmes requires better co-ordination, primarily between the DOA and the DLA, between the national, provincial and local government and the active participation by farmers' organisations and business. The framework document further echoes the need to clarify the roles and responsibilities of the various departments and the need to put in place the necessary institutional mechanisms for project implementation and monitoring, a disjuncture that is seen to reflect the broader challenge the Government has in identifying the most appropriate mechanisms for ensuring the resourcing of interdepartmental programmes.

CASP is designed to support four different levels of clients within the farming continuum, namely:

- T**he hungry** –This group is primarily the responsibility of the Department of Social Development. However, they are supported by the DOA and PDAs through advice, and during food emergencies and crises through agricultural food packs.
- **Subsistence and household food producers** – These are the household food security clients supported with programmes such as the Special Programme on

Food Security (SPFS) and the Integrated Food Security and Nutrition Programme (IFSNP). Agricultural starter packs are provided to this group.

- **Farmers** – This group refers to those who produce mainly for the commercial market, and include the beneficiaries of the LRAD programme. They receive strategic farm-level support and interventions, e.g. the rehabilitation of the irrigation schemes. CASP makes it a conditional requirement that a minimum of 70% of funds disbursed to a province be used for the benefit of land reform beneficiaries. All along the purchase of production inputs for land reform beneficiaries has not been allowed, but indications are that this condition will fall away starting from April 2009.
- **General public** – Support is given to this category to ensure that the business and regulatory environment is conducive to supporting agricultural development and food safety.

The above-mentioned categories of clients are financed through the following six cost drivers.

- information and knowledge management;
- technical and advisory assistance, and regulatory services;
- training and capacity building;
- marketing and business development;
- on-farm and off-farm infrastructure and production inputs; and
- financial assistance.

5.4 CONCLUSION

The LRAD programme is a hybrid product reflecting a combination of state involvement in the land market as well as free market mechanisms. The state intervenes because it has specific developmental and transformational goals to achieve, which it feels cannot be left to be corrected by market forces. Though the state has not assumed a dominant role in the land market as far as redistribution is concerned, it has nevertheless gone

beyond its conventional role of governance by providing both the regulatory mechanisms and incentive packages to facilitate implementation of the LRAD programme.

The implementation or roll-out of the LRAD programme also reflects this composite arrangement where state and non-state entities have to collaborate. A combination of these market and non-market forces at a given time has over time given result to certain policy outputs in respect of LRAD programme administration. The main thrust of this research is investigating the extent to which the instrumental objectives as described in the White Paper on Land Policy (1995) are being promoted, as well as the interaction of these and other variables in advancing or constraining the administration of the LRAD programme. Chapter 6 will present findings on LRAD programme implementation in the North West Province.